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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,659	09/08/2003	Edward F. Andrewlavage JR.	ADP-167.1	2175
23520	7590	05/18/2005	EXAMINER	
MAURICE M KLEE 1951 BURR STREET FAIRFIELD, CT 06824			ASHLEY, BOYER DOLINGER	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/657,659	Applicant(s) ANDREW LAVAGE, EDWARD F.	
	Examiner Boyer D. Ashley	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/8/03</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

1. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 120 as follows:

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification or in an application data sheet by identifying the prior application by application number (37 CFR 1.78(a)(2) and (a)(5)). If the prior application is a non-provisional application, the specific reference must also include the relationship (i.e., continuation, divisional, or continuation-in-part) between the applications except when the reference is to a prior application of a CPA assigned the same application number.

### ***Claim Objections***

2. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

For example, "W", "L", and "Vsheet" in claims 1, 2, 5 and 7.

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3. Claims 2 and 7 are objected to because of the following informalities: the use of the "Vsheet" reference should be changed to –the vector– as set forth on line 4 of both claims 1 and 5. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4-7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fancher, U.S. Patent 2,538,901.

Fancher discloses the same invention as claimed including the steps of, e.g., a) releasably engaging the moving sheet (the sheet is moving as it is positioned within the cutting device of Fancher) within an area defined by the length and width of the pane to be separated (17); b) rotating the to be separated pane about an axis which is substantially coincides with the separation line (the to be separated pane is scored by cutter 25 and bend about the scored line by breaker bar 28, see column 2, lines 50-63 and column 3, lines 4-10); c) passively moving the separated pane relative to the moving sheet using gravity as the motive force so that the plane and the sheet do not contact each other once the separation occurs (the device of Fancher supports the glass vertically cutting the separation process and includes no support for the to-be-separated section and therefore, the separated pane is influenced by gravity).

It should be noted that the claims do not positive set forth that the sheet is continuously moving throughout the method steps. Furthermore, it is not clear from the phrase "within an area defined by the length and width of the to-be-separated pane" if the releasably engaging step includes engaging the to-be-separated pane portion or any portion of the moving sheet.

As to claims 2 and 7, the vector of movement of the sheet is partially vertical, in that, during locating the sheet within the device of Fancher the sheet is moved both horizontally and vertical in order to positioned the sheet correctly.

As to claim 5, the motive force of Fancher includes spring force because the breaker bar of Fancher is spring biased.

6. Claims 1, 3-6 and 8-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Gray, U.S. Patent 4,140,258.

Gray discloses the same invention as claimed including the steps of, e.g., a) releasably engaging the moving sheet (the sheet is moving as it is positioned within the cutting device of Gray) within an area defined by the length and width of the pane to be separated (38/8a/8b see Figures 7 and 8); b) rotating the to be separated pane about an axis (C, Figures 7 and 8) which is substantially coincides with the separation line (the to be separated pane is scored by the cutter and bent about the scored line by support 38, see column 6, lines 30-60; c) passively moving the separated pane relative to the moving sheet using gravity as the motive force so that the plane and the sheet do not contact each other once the separation occurs (the device of Gray supports the glass vertically by support 38 and moved away from the sheet by support 38 wherein gravity

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facilitates the movement of the cut pane with support 38 merely from the weight of the glass).

It should be noted that the claims do not positive set forth that the sheet is continuously moving throughout the method steps. Furthermore, it is not clear from the phrase "within an area defined by the length and width of the to-be-separated pane" if the releasably engaging step includes engaging the to-be-separated pane portion or any portion of the moving sheet.

As to claims 3, 5, and 8, the motive force of Gray includes hydraulic force (14) and vacuum (8a/8b).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

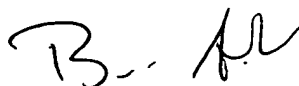
8. The prior art references cited but not relied upon were cited to shown similar devices in the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Boyer D. Ashley  
Primary Examiner  
Art Unit 3724

BDA  
May 16, 2005